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ACOG
THE AMERICAN CONGRESS OF OBSTETRICIANS AND GYNECOLOGISTS

Testimony to the House Health Policy Committee on behalf of the Michigan Section of ACOG in opposition of House Bills 5711-13

Unrestricted access to comprehensive women's health services is vital to prevent pregnancy-related deaths of Michigan women.

"Pregnancy complications" is the sixth leading cause of death in American women aged 20 to 24 and the seventh leading cause of death in others between the ages of 15 and 34. Michigan women need access to obstetrician-gynecologists (Ob-Gyns) to help reduce their risk of serious health complications related to pregnancy.

In 2004, Michigan's maternal mortality ratio ranked the 42nd worst in the country and was rated "unsatisfactory." A 2010 report by the Michigan Department of Community Health identified that 21 of the 83 counties in Michigan lacked even one Ob-Gyn provider. Ob-Gyn recruitment and retention will need to be a priority if Michigan is to make significant improvements in its excessive maternal mortality rate.

Legislation that imposes capricious fines, civil litigation and criminal sentences related to pregnancy services will deter Ob-Gyns from choosing to work in this state and further reduce Michigan women's access to quality obstetrical care.

House Bill 5711 would create Section 2836, which would subject Michigan physicians to a felony charge of up to three years in prison and a fine of five thousand dollars for failure to follow new administrative requirements for disposal of fetal remains from an abortion, though not from a miscarriage. It would also create Section 2854, which would subject Michigan physicians to an additional civil infraction and fine of one thousand dollars per occurrence for violating Section 2836 or by failing to obtain proper authorization for disposition of a miscarriage and it encourages the initiation of civil litigation against the physician for violating subsection (1) of section 2854.

House Bill 5713 would create Section 324, which would subject Michigan physicians to a felony charge of up to fifteen years in prison and a fine of $7,500 for terminating ANY pregnancy of 20 or more weeks post-fertilization unless death of the mother was imminent.

Michigan Section of ACOG testimony in opposition of House Bills 5711, 5712, and 5713

What physician would want to offer his or her services to a pregnant woman in the process of miscarrying or in need of a health -protecting termination of a pre-viable pregnancy if it meant exposing him or herself to this kind of legal and financial jeopardy?

HB 5711 also creates Section 17019, which imposes the burdensome requirement for one million dollars of professional liability coverage if an Ob-Gyn performs five abortions in a month and has also been the subject of two civil lawsuits within the preceding seven years related to harm caused by abortions, *regardless of the status or outcome of the litigation.*

This is an onerous obligation that is not required for other procedures within Ob-Gyn or any other specialty. Under this rule, an Ob-Gyn who provides abortion services to his or her established patients might face the professional dilemma of denying the procedure to an woman if the doctor had already performed five procedures in that month. It would also invite frivolous lawsuits by those whose agenda is to restrict access to safe, legal abortion services.

What message does this send to ob-gyn providers who want to work in our state?

Legislation that interferes with the doctor-patient relationship will reduce the likelihood that women will seek important medical guidance during pregnancy and increases their likelihood of suffering from serious preventable pregnancy complications.

Conversations between physicians and patients are held in strict confidence because of the sensitive nature of many topics and because of the importance of full disclosure to facilitate accurate diagnosis and consideration of appropriate interventions. This is similar to the privileged discussions held between attorneys and clients and between clergy and parishioners. Without the tacit understanding that outside interference is proscribed, the frank communication essential to these professional relationships would be inhibited and would hamper the effectiveness of any interaction.

Requiring physicians to perform a scripted screening interview, dictated by the State, during a professional discussion of great sensitivity and also requiring those responses to be documented in a prescribed format in the medical record encroaches upon the doctor-patient relationship in a manner that impacts not only that encounter, but future interactions as well. The knowledge that an honest response to the doctor could result in a child protective service evaluation or a report leading to a criminal charge carrying a five thousand dollar penalty is more than enough to discourage patients from discussing their situation candidly and lead them to treat other parts of the medical interview with similar contempt.

For the Ob-Gyns that are willing to tolerate the legal risks of providing obstetric care in Michigan, the preservation of the autonomous doctor-patient relationship is essential to maximize the impact on maternal mortality reduction. To do otherwise would further restrict the effectiveness of a team that is currently understaffed to meet the health needs of the women in Michigan.

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The legislation before the committee today, if enacted, will negatively impact the health and welfare of Michigan women and should be rejected.

The provisions in this package of bills serve the interests of a special interest group at the expense of the female constituents of the State of Michigan and their families.

As representatives of the state's healthcare providers for women, the Michigan Section of ACOG recommends that this legislation be withdrawn.

Respectfully submitted,

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